

HOUSE BILL REPORT

HB 2699

As Reported by House Committee On:
Criminal Justice & Corrections

Title: An act relating to crimes committed with sexual motivation.

Brief Description: Increasing penalties for crimes committed with sexual motivation.

Sponsors: Representatives O'Brien, Pearson, Ericks, Rodne, Nixon, Kilmer, Green, Sells, McDonald, P. Sullivan, McCoy, Simpson, Moeller, Morrell, Lantz, Hudgins, Linville and McCune; by request of Attorney General.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/26/06, 1/31/06 [DP].

Brief Summary of Bill

- Imposes sentencing enhancements on crimes committed with sexual motivation.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby, Strow and Williams.

Staff: Jim Morishima (786-7191).

Background:

I. Sentencing Enhancements

Under some circumstances, a court is required to add time to an offender's standard sentence range. For example, a court must add five years to the standard sentence range for a class A felony committed with a firearm. Similarly, the court must add two years to the standard range for certain drug-related offenses committed in a drug-free zone.

II. Sexual Motivation Special Allegation

A person commits a crime with sexual motivation if one of the purposes for which he or she committed his or her crime was sexual gratification. In a prosecution of any felony (other than a sex offense), the prosecutor must file a special allegation of sexual motivation if evidence exists that would justify a finding of sexual motivation by a reasonable and objective fact-

finder. If the prosecutor files such a special allegation, he or she has the burden of proving beyond a reasonable doubt that the crime was committed with sexual motivation.

Summary of Bill:

I. Sentencing Enhancements

A sentencing court must add additional time to a felony offender's standard range if the offender committed his or her crime with sexual motivation. If the offender is being sentenced for more than one offense, the additional time must be added to the total period of confinement for all of the offenses, regardless of which offense was subject to the sentencing enhancement. The additional times that a court must add to the standard range of a felony committed with sexual motivation are as follows:

- 24 months for a class A felony;
- 18 months for a class B felony; and
- 12 months for a class C felony.

A court must double the amount of time added to the sentence if the person was subject to the sexual motivation enhancement in a previous conviction. A sexual motivation enhancement is mandatory, must be served in total confinement, and must run consecutively to all other sentencing provisions. If the standard sentence range exceeds the statutory maximum for the crime, the presumptive sentence for the offender is the statutory maximum; in such a case, the portion of the sentence represented by the enhancement may not be reduced.

The sexual motivation sentencing enhancement may not be imposed if the court sentences a person to the Special Sex Offender Sentencing Alternative (SSOSA). However, if an offender's SSOSA is revoked, he or she is subject to the enhancement.

II. Sexual Motivation Special Allegation

The prosecutor is required to file a special allegation of sexual motivation in criminal cases involving misdemeanors and gross misdemeanors.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect on July 1, 2006.

Testimony For: This bill will help keep dangerous sex offenders off the streets thereby keeping our kids safe. This bill was drafted with input from prosecutors and law enforcement. It is a tool that prosecutors and law enforcement have indicated they need.

Testimony Against: The system is working right now. These enhancements could apply to relatively minor crimes and will create disproportionate sentences. The higher sentences will

lead to less eligibility for the SSOSA, which will cause fiscal problems. Longer sentences will lead to more trials.

Persons Testifying: (In support) Representative O'Brien, prime sponsor; Hunter Goodman, Environmental Affairs; and Todd Bowers, Office of the Attorney General.

(Opposed) John Sinclair, Washington Association of Criminal Defense Lawyers and Washington Defenders Association.

Persons Signed In To Testify But Not Testifying: None.